

Blythe Robinson

From: Lauren F. Goldberg <LGoldberg@k-plaw.com>
Sent: Wednesday, September 28, 2016 12:29 PM
To: Blythe Robinson
Subject: RE: Warrant article language

Blythe, in my opinion, there are two ways to address this. One is through a stand-alone article. The amount transferred to reduce the tax rate would then be subtracted from the amount required to be raised on the recap sheet. The benefit to this approach is that it stands out, and is debatable separately. The article could take a form similar to the following:

To see if the Town will vote to transfer from available unappropriated funds in the town treasury a sum of money to reduce the tax rate for FY2017, or take any other action relative thereto.

As you suggest, the other option would be to amend Article 3 to add free cash as a funding source. To the extent that this approach is desired, it could be included as a transfer in such article,

To see if the Town will vote to amend the Fiscal Year 2017 operating budget as voted under Article 3 of the 2016 Annual Town Meeting, by transferring the total sum of _____ from Free Cash to the line items and in the amounts substantially as specified in the chart below, and, further, to transfer a sum of money from Free Cash as a funding source for the budget approved under said Article 3, and to reduce, in like amount the total amount to be raised from taxation for such purposes; or take any other action related thereto.

Please let me know if you would like to discuss these draft articles and the potential implications thereof any further.

Very truly yours,

Lauren

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From: Blythe Robinson [<mailto:BRobinson@uptonma.gov>]
Sent: Wednesday, September 21, 2016 10:34 AM
To: Lauren F. Goldberg
Subject: Warrant article language

Hi Lauren,

I'm starting to pull together the warrant for the STM on November 15th and have a question.

As you know, the BOS want to use some of the free cash that we rolled over towards reducing the tax impact on residents this year. It is too soon for me to know how much given that we're waiting for our values to be certified, new growth and free cash, but I wanted you to send me the text of an article that would use free cash to accomplish this. I'm guessing it is an amendment to Article 3 but I know you'll clarify.

If it is an amendment to article 3, could it be done along with other adjustments to that article or separately? And if it is separate, should it go before/after we've made those adjustments? I know I need funds to address the condemned properties and Town Counsel expenses at least.

Thanks for providing some guidance so I can get going on this.

Thanks,
Blythe

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Blythe Robinson

From: Lauren F. Goldberg <LGoldberg@k-plaw.com>
Sent: Wednesday, September 28, 2016 12:39 PM
To: Blythe Robinson
Subject: RE: zoning bylaw change by petition

Blythe, a Zoning Bylaw amendment received by petition is subject to the provisions of G.L. c.40A, §5. The first paragraph of that section provides, in relevant part:

Adoption or change of zoning ordinances or by-laws may be initiated by the submission to the . . . board of selectmen of a proposed zoning ordinance or by-law by . . . a board of selectmen, a board of appeals, by an individual owning land to be affected by change or adoption, by request of registered voters of a town pursuant to section ten of chapter thirty-nine, . . . by a planning board, by a regional planning agency or by other methods provided by municipal charter. The board of selectmen or city council shall within fourteen days of receipt of such zoning ordinance or by-law submit it to the planning board for review.

Thus, a Zoning Bylaw amendment may be submitted in any of the ways set forth in the statute, including by citizens petition.

Section 5 continues:

No zoning ordinance or by-law or amendment thereto shall be adopted until after the planning board in a . . . town . . . has . . . held a public hearing thereon . . . at which interested persons shall be given an opportunity to be heard.

Thus, in my opinion, if a petition is received pursuant to any of the methods set forth in the statute, it must be referred by the Board of Selectmen to the Planning Board for a hearing. The remainder of G.L. c.40A, §5 would apply to such a proposed Zoning Bylaw amendment, including notice of the hearing in the newspaper in accordance with the timing restrictions applicable thereto, the holding of a hearing within 65 days of referral, and, prior to action by Town Meeting, a Planning Board report or the passage of 21 days following the hearing without the submission of such a report. There is nothing that requires the Planning Board to act before the expiration of the 65 days, however, even if Town Meeting will be held in the interim, in my opinion. Of course, whether that would be a "good" choice, from a policy perspective, is a different question not answerable by the statute.

Please let me know if there are further questions on this issue.

Very truly yours,

Lauren

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